

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MICHAEL YOUNG,)	
)	
Plaintiff)	
)	
v.)	
)	CV: 2:07-cv-130-MHT
COOPER LIGHTING, INC.,)	
A Delaware Corporation,)	
)	
)	
Defendant.)	

PLAINTIFF'S BRIEF IN SUPPORT OF PETITION TO REMAND

_____ COMES NOW the Plaintiff, Michael Young, and files this his brief in support of his petition for remand.

Plaintiff filed an Alabama state law age discrimination claim against the Defendant Cooper Lighting. Cooper Lighting does business in Barbour County, Alabama. Plaintiff sought damages in the amount of \$74,999.00. Plaintiff specifically stated in his Complaint that he was waiving any recovery in excess of that amount. In spite of said Complaint, the Defendant filed a removal petition.

The Defendant has failed to present to this Court one case stating that federal jurisdiction is proper in this instance. Plaintiff would cite this Court to *Accardo, et al. v. Lafayette Insurance Company, et al.*, 2007 U.S. District Lexis 6859 (Eastern District Louisiana). *Accardo* states that:

“In accessing whether removal is appropriate, a district court is guided by the principal grounded in notions of comity in recognition that federal courts are courts of limited

jurisdiction, that removal statutes must be strictly construed. It further holds that if Plaintiff pleads damages less than the jurisdictional amount, this figure will also generally control, barring removal. Thus, in a typical diversity case, the plaintiff is the master of his or her complaint.

Whether a claim arises under federal law must be determined by referring to the well pleaded complaint. This means that the federal question must appear on the face of the complaint.

Here, under this rule, there is no federal jurisdiction because the amount in controversy is not met. This Court has no choice but to remand the case back to Barbour County Circuit Court.

Wherefore, premises considered, the Plaintiffs move for an Order remanding this case back to Barbour County Circuit Court and taxing costs and attorneys fees to the Defendant.

Respectfully submitted,

s/Jerry Roberson
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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